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Security Council

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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 31 May 2016 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Spain to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) concerning the Democratic People's Republic of Korea and has the honour to submit herewith the national report of Spain on the implementation of resolution 2094 (2013) in accordance with paragraph 25 thereof (see annex).

The Permanent Mission of Spain upholds its responsibilities under Security Council resolutions on the Democratic People's Republic of Korea and takes this opportunity to convey to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) the renewed assurances of its highest consideration.

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Annex to the note verbale dated 31 May 2016 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

Report of Spain on the implementation of Security Council resolution 2094 (2013)

International financial sanctions

Under Chapter VII of the Charter of the United Nations, the Security Council may take enforcement action to maintain or restore international peace and security. Such action ranges from economic sanctions or other measures that do not involve the use of armed force to international military intervention. Furthermore, under the Common Foreign and Security Policy, the European Union applies restrictive measures or sanctions (both terms are used interchangeably) pursuant to article 11 of the Treaty of the Union, whether on the autonomous basis of the European Union or in line with Security Council resolutions.

The adoption of sanctions by the European Union is part of attaining the specific goals of the Common Foreign and Security Policy: to safeguard the common values, fundamental interests, independence and integrity of the Union in all ways; to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter; and to promote international cooperation and consolidate democracy, the rule of law and respect for human rights and fundamental freedoms.

Overall, as restrictive measures are continually evolving and adapting, they are reflected in a wide variety of legal instruments. However, in order to facilitate follow-up, the European Commission regularly updates the amendments and instruments in force. These are available at the following link: http://eeas.europa.eu/cfsp/sanctions/index_en.htm.

Who is bound by financial sanctions?

In accordance with the regulations, restrictive measures shall apply:

- To any person inside or outside the territory of the Union who is a national of a member State;
- To any legal person, entity or body inside or outside the territory of the Union which is incorporated or constituted under the law of a member State;
- To any legal person, entity or body in respect of any business done in whole or in part within the Union.

Measures for the freezing or blocking of funds and economic resources

As with other sanctions regimes adopted internationally for various reasons, the most relevant measure is the freezing or blocking of funds and economic resources belonging to an expressly designated person, entity or body.

Annexes to regulations on restrictive measures list the persons and entities subject to freezing measures. Consequently, business relations may not be established or maintained with them, except as specified in the regulations themselves.

An entity receiving a payment from persons or entities subject to restrictive measures or possessing funds or economic resources at the time of the designation shall immediately freeze such payment, funds or resources, and shall immediately notify in writing the General Secretariat of the Treasury and Financial Policy (Paseo del Prado No. 6, 28014, Madrid).

Problems of identical names

When an entity detects that the name of a client matches any person subject to freezing measures, the necessary arrangements may be made at the request of the entity and without prejudice to the immediate freezing of funds, in order to verify whether the identity of the person in question matches that of the person subject to the freezing measures.

Once this information has been communicated to the General Secretariat of the Treasury, the latter requests additional information from the Civil Guard, the national police and the Ministry of Foreign Affairs and Cooperation in an attempt to confirm that data on the entity's clients match those included in the lists.

Having received this clarifying information, should any data be available, this will be transmitted to interested parties who shall decide, on that basis, whether or not to unfreeze the funds.

Release of frozen funds

The legislation provides for certain cases in which previously frozen or blocked funds may be released, as long as the conditions set out in the regulations are met. In such cases, the competent authorities of member States may authorize, under the conditions that they deem appropriate, the release of certain funds or economic resources, provided that the conditions established in the provisions are met.

Such cases shall be processed in line with the rules laid down in each regulation and must meet the particular circumstances of each case on the basis of documentary evidence.

Procedure

The General Secretariat of the Treasury and Financial Policy (Sub-Directorate-General of Inspection and Control of Capital Movements) is the competent national authority.

The following steps shall be taken for the release of frozen funds in Spain:

(a) The entity receiving a payment from persons or entities subject to restrictive measures shall freeze the funds immediately;

(b) The receiving entity may issue a written request for the release of the frozen funds or economic resources, which shall be sent to the General Secretariat of the Treasury and Financial Policy when any of the conditions set out below have been met:

- Amount of payment received subject to freezing; form of payment; recipient; purpose; date of its receipt and date of the freeze;

- Certification from the requesting entity that the requirements laid down in the regulation for authorization of the release of the funds has been fulfilled, with a certified copy of the relevant documents. Alternatively, originals may be provided for certification by the administrative body;

(c) Having received the request, the General Secretariat of the Treasury and Financial Policy shall study, process and issue a ruling on the submission within a maximum of six months, without prejudice to the possibility of suspending the calculation of the deadline in the cases set out in article 42, paragraph 5, of Act 30/1992 of 26 November, and the extension that may be relevant to the provisions of article 49 of that Act. After that deadline, the requesting entity may consider the request denied pending administrative appeal;

(d) The General Secretariat of the Treasury and Financial Policy shall inform the requesting entity in writing whether or not the release of the frozen funds has been authorized.

Best practices in the area of sanctions, drawn up by the European Union, may also be consulted at the following link: https://europeansanctions.files.wordpress.com/2013/03/eu-best-practices-on-sanctions-2008.pdf.